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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,530	03/29/2004	Jonathon Loew	203.1013	2262
21831	7590	03/24/2006	EXAMINER	
WOLF BLOCK SCHORR AND SOLIS-COHEN LLP			ELKINS, GARY E	
250 PARK AVENUE			ART UNIT	
NEW YORK, NY 10177			PAPER NUMBER	
			3727	
DATE MAILED: 03/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/811,530		LOEW, JONATHON	
	Examiner		Art Unit	
	Gary E. Elkins		3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 8-12 have been renumbered as claims 7-11, respectively and the dependencies of claims 9, 11 and 12 have been changed correspondingly insofar as no claim 7 was included within the originally filed claims. Any new claims added by amendment should therefor be numbered beginning with the number 12.

Specification

2. The abstract of the disclosure is objected to because it is written as a run-on sentence, i.e. it is written in claim format. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, last line, “a side of side center portion” is unclear. If the previously defined center portion is being defined, then “center portion” is a double inclusion of an element, i.e. the element is being reintroduced into the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by either Meyer et al or Grimm. Each of Meyer et al and Grimm discloses a container including a

corrugated board assembly and a clear front wall formed by a sheet of material having an assembled state or carton state. No distinction is seen between the claimed carton and that shown in either Meyer et al or Grimm as a result of the claimed intended formation or manufacture of the board assembly and clear front wall from flat unassembled states, i.e. each of the assembly and clear front wall in the carton of Meyer et al or Grimm is capable of the intended manufacturing state recited.

6. Claims 1-5, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by McQueeny. McQueeny discloses a container including a corrugated board assembly and a clear front wall formed by a sheet of material having an assembled state or carton state. No distinction is seen between the claimed carton and that shown in either Meyer et al or Grimm as a result of the claimed intended formation or manufacture of the board assembly and clear front wall from flat unassembled states, i.e. each of the assembly and clear front wall in the carton of Meyer et al or Grimm is capable of the intended manufacturing state recited. With respect to claims 7 and 9, note is made of the folding locking tabs 54.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Derman or Richardson, each in view of any one McQueeny, Meyer et al or Grimm. Each of Derman and Richardson discloses all structure of the claimed carton except formation of the board assembly

from corrugated board material. Each of McQueeney, Meyer et al and Grimm teaches that it is known to make a carton from corrugated board. It would have been obvious to make the carton in either Derman or Richardson from corrugated board as taught by any one of McQueeney, Meyer et al or Grimm to provide a stronger and/or more insulative container. Corrugated board is notoriously well known in this art.

9. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of any one of McQueeney, Meyer et al or Grimm. Smith discloses all structure of the claimed carton except formation of the board assembly from corrugated board material. Each of McQueeney, Meyer et al and Grimm teaches that it is known to make a carton from corrugated board. It would have been obvious to make the carton in Smith from corrugated board as taught by any one of McQueeney, Meyer et al or Grimm to provide a stronger and/or more insulative container. Corrugated board is notoriously well known in this art.

10. Claims 1, 4, 5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butcher in view of any one of McQueeney, Meyer et al or Grimm. Butcher discloses all structure of the claimed carton except formation of the board assembly from corrugated board material. Each of McQueeney, Meyer et al and Grimm teaches that it is known to make a carton from corrugated board. It would have been obvious to make the carton in Butcher from corrugated board as taught by any one of McQueeney, Meyer et al or Grimm to provide a stronger and/or more insulative container. Corrugated board is notoriously well known in this art.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of McQueeney, Meyer et al or Grimm, each in view of either Crysdale or Callendar et al. Each of McQueeney, Meyer et al and Grimm discloses all structure of the claimed carton except formation

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of the transparent window from PETG. Each of Crysdale and Callendar et al teaches that it is known to make transparent plastic from PETG. It would have been obvious to make the window material in any one of McQueeny, Meyer et al or Grimm using PETG as taught by either Crysdale or Callendar et al since PETG provides good flexibility and good formability.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 4 in either paragraph 9 or 10 above, and further in view of either Crysdale or Callendar et al. Each of modified Smith or Butcher evidences all structure of the claimed carton except formation of the transparent window from PETG. Each of Crysdale and Callendar et al teaches that it is known to make transparent plastic from PETG. It would have been obvious to make the window material in either Smith or Butcher using PETG as taught by either Crysdale or Callendar et al since PETG provides good flexibility and good formability.

Allowable Subject Matter

13. Claims 10 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

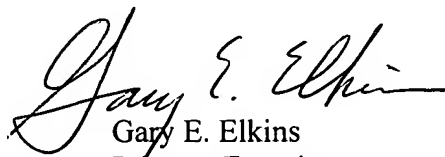
In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday, Tuesday and Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
17 March 2006